

Tax Type: Property Tax
Issue: Charitable Ownership/Use

SAMARITAN MINISTRIES)	
INTERNATIONAL)	
Applicant)	Docket No. 01-PT-0049
v.)	P. I. # 05-05-18-306-001
)	P. I. # 05-05-18-306-003
THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	Dept. Docket # 00-90-30
)	

Appearances: Matthew Crain, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; J. Brian Heller for Samaritan Ministries International.

This case concerns whether property that is located in Tazewell County and owned by Samaritan Ministries International (“applicant” or “SMI”) qualifies for a property tax exemption for the year 2000. SMI is an organization that assists Christians with their medical burdens. SMI alleges that the property qualifies for an exemption on the basis that it is used exclusively for religious or charitable purposes. The Department of Revenue (“Department”) denied the exemption, the applicant timely protested the denial, and an evidentiary hearing was held. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The applicant is a not-for-profit corporation that was incorporated in Illinois on September 11, 1991. (Tr. p. 8; Applicant Ex. #1)

2. The applicant was organized to assist Christians with their large medical burdens financially, emotionally, and spiritually. (Tr. p. 10; Applicant Ex. #11)

3. In order to help Christians with their medical burdens, the applicant publishes and distributes a monthly Christian Health Care Newsletter (“Newsletter”) to each member/subscriber of the applicant, along with a letter describing the medical need¹ of a particular subscriber of the applicant. The other subscribers are expected to give financial, emotional, and spiritual support to the member in need. (Tr. pp. 10, 22-24)

4. In addition to helping with medical burdens, the applicant promotes Christianity as an answer to the world’s needs. (Tr. pp. 21-22, 50)

5. The applicant’s Bylaws indicate that the applicant’s purpose includes “[a]ssociating within the community of Christian faith for discipleship, medical-sharing, physical needs-sharing, financial stewardship, evangelical, and educational purposes.” It also includes “[p]romoting the biblical concept of mutual aid sharing, historically practiced among Christians as it relates to the socio-economic and spiritual needs of its Subscribers.” (Applicant Ex. #3, pp. 3-4)

6. In October of 1994, the applicant began publishing the monthly Newsletter and began facilitating the sharing of medical burdens. (Tr. p. 22)

7. On February 21, 2000, the applicant entered into an agreement wherein it obtained the option to purchase approximately two and a half acres of property located in Tazewell County.

A building that is approximately 70 feet by 70 feet is located on the property. (Tr. pp. 74-79; Applicant Ex. #17)

8. The applicant spent about three months renovating the building and then moved into the building. (Tr. p. 80)

9. The applicant's activities take up the entire building. A parking lot is next to the building for the applicant's employees and visitors. There is no other activity on the property. (Tr. p. 79)

10. To become a subscriber or member of the applicant and participate in sharing medical burdens, a person must fill out a form wherein they agree with a list of statements that include various Christian principles. For example, the person must affirm that he or she is a born-again Christian, that he or she attends church regularly (three out of four weeks per month that health and weather permit), and that he or she totally abstains from illegal drugs, tobacco use, and sex outside of heterosexual marriage. The person must also agree to limit consumption of alcohol to low percentage alcohol beverages, and never drink to drunkenness. (Applicant Ex. #12; Tr. p. 46)

11. The person's pastor must sign the subscription form and verify that the information is true to the best of his knowledge. (Applicant's Ex. #12)

12. Each year the member must sign and send to the applicant the subscription form confirming that they are meeting the listed requirements, i.e., following the Christian principles. Again, the pastor must verify this information. (Applicant Ex #11, p. 7, #12)

13. In addition to signing the subscription form and meeting the Christian criteria, to become a member or subscriber of the applicant, a person must pay an annual

¹ Medical needs are also referred to in the record as "incidents" or "expenses." (Applicant Ex. #11)

subscription/administrative fee, which is currently \$120. The fee has been \$120 since the applicant began its operations in 1994. (Applicant Ex. #11; Tr. p. 72)

14. The annual fee is paid when a member first joins and each year thereafter. The applicant does not charge a late fee. (Applicant's Ex. #11; Tr. p. 59)

15. The applicant's guidelines do not contain a provision for the waiver of the annual fee or the monthly sharing amount. The guidelines state that in order to be able to renew a subscription to the Newsletter or to submit a medical need, a person must meet all the requirements detailed in the guidelines (i.e., follow the Christian principles), send to all regular needs suggested in the monthly Newsletter, and pay the annual subscription fee. (Applicant Ex. #11, p. 7)

16. The failure to follow the guidelines or to pay the annual fee or the monthly sharing amount is a basis for disqualifying a member from having that member's medical needs "published." Having a need published means that it will be published in the applicant's Newsletter, and other members are expected to contribute towards the need. (Applicant Ex. #11, pp. 6-7; Tr. p. 99)

17. If a person does not agree to all the Christian criteria or does not continue to adhere to them, then the person may still subscribe to the Newsletter and be a member of the applicant. However, his or her medical needs will not be published in the letter to the other members. (Tr. p. 99)

18. The applicant retains the absolute discretion to accept, reject or qualify the member's subscription, but the subscription will not be refused based on the member's age, sex, occupation, health, or family size. (Applicant's Ex. #12; Tr. p. 54)

19. The applicant does not reject members based on their medical history, but the medical needs resulting from pre-existing heart conditions, cancer, and diabetes will not be published as a part of the regular provisions of the ministry. (Applicant Ex. #11; Tr. pp. 53-54)

20. If a member is 65 years old or older, the applicant requires the member to have Medicare. The applicant requires all members to first submit bills to any insurance, Medicare, or Worker's Compensation that cover the bills. (Applicant Ex. #11, p. 13; Tr. pp. 96-97)

21. Sometimes a member will drop other insurance coverage upon joining the applicant, but this is not common. A member may choose to drop other health insurance coverage entirely and rely upon the applicant if they wish to do so. (Tr. pp. 99-100)

22. At least 50% of new members do not have health insurance when they join the applicant. (Tr. p. 106)

23. The applicant's guidelines list the medical incidents that the members have chosen to publish or share among other members. In other words, any incident included in the list will be published to the other members, and the other members will be asked to send their monthly share to cover the expense related to the incident. (Applicant Ex. #11, pp. 9-10)

24. The applicant's guidelines also include a list of medical incidents that will not be submitted for publication. These include general dental expenses, any need that totals less than \$200 or more than \$100,000 (per-person per-incident), and optometric and audiology services or tests. (Applicant Ex. #11, pp. 10-13)

25. Other medical incidents that are not covered include needs involving the HIV virus and/or AIDS virus (unless the disease was contracted innocently, such as tainted blood transfusion or unusual circumstances), sexually transmitted diseases (unless it was contracted innocently), abortions of a living fetus, bills for sterilization or the reversal of the same (reversals

will be considered for publication as a compassion need²), and mental, emotional, spiritual, psychological or psychiatric tests or treatment. (Applicant's Ex. #11, pp. 10-13)

26. When a member has a medical financial need, they send documentation to the applicant's office. If the need falls within the guidelines, it is published by the applicant. (Applicant's Ex. #11, p. 6)

27. The applicant does not restrict its membership to a particular denomination of Christian religions. (Tr. p. 46)

28. Once a person becomes a member of the applicant, he or she begins to receive the applicant's publications, which are: (1) the main Newsletter, (2) a Prayer Guide, and (3) a one-page letter that is individualized for each member and concerns the person to whom they are expected to send money. Each of these arrives to the subscriber at the same time. (Applicant's Group Ex. #8, 9)

29. The majority of the Newsletter consists of articles concerning the Christian viewpoint on various issues. Each Newsletter includes articles written by a person associated with the Worldview Institute, which is a non-profit organization that promotes a Christian philosophy to be applied to all aspects of life (i.e., it promotes a Christian worldview). The Newsletter also includes a story about the ministry or mission program of one of its members, and a letter from the editor wherein he comments about a verse from the Bible. (Applicant's Group Ex. #8; Tr. pp. 27-30, 35-36)

30. A small portion of the Newsletter concerns news and information about its members, such as a letter from a subscriber discussing a medical need and how the applicant ministered to

² As explained later, a compassion need is one that members are not required to contribute towards financially, but they may provide financial, emotional, or spiritual assistance if they would like to do so.

them. A small portion of the Newsletter also concerns news about the applicant. (Applicant's Group Ex. #8; Tr. pp. 27-30)

31. The articles in the Newsletter are either donated to the applicant or are written by its employees. Only one person, who is a professor at a college in Michigan, has been paid an honorarium for his articles. (Tr. pp. 37-38)

32. The Newsletter does not include any paid advertisements. The applicant allows the Worldview Institute to sell books through its Newsletter columns. The applicant handles the book sales at no charge to the Worldview Institute, and the applicant does not benefit from the sales. (Tr. p. 36)

33. The second part of the applicant's publications is the Prayer Guide. This lists names of people to pray for and the reason for the prayer request. The prayer requests include people with new physical maladies, people who have been listed before and continue to need to be remembered in prayer, and women who are pregnant and who have asked for prayer for healthy pregnancies and safe deliveries. The Prayer Guide does not list the addresses of the people for whom the prayers are requested. (Applicant Group Ex. #8B, D, E, F; Tr. pp. 30-31)

34. The third part of the applicant's publications is the letter concerning the member to whom subscribers are expected to give money for that month. Each month, members are expected to help other members with their "publishable" medical needs by sending a "share" amount to the other member as designated by the applicant. The current monthly share amounts are \$70 for a single person, \$140 for a couple, and \$175 for a family. In other words, every month a single person who is a member of the applicant is expected to send \$70 to another member who is described in the monthly letter. (Applicant Ex. #9, #11, #12; Tr. p. 48)

35. For each publishable medical need, the applicant assigns the need to enough members so that their monthly share amounts will meet that need. (Tr. p. 88)

36. Each member sends his or her monthly share amount directly to the person with the need. (Tr. pp. 56-57)

37. The applicant does not guarantee that any medical bill will be paid. (Applicant's Ex. #11, pp. 4-7; Tr. p. 20)

38. The failure of a member to send his or her monthly share results in the loss of that member's right to receive the applicant's benefits. (Applicant's Ex. #11, pp. 4-7)

39. The letter concerning the member whose medical expense they are expected to share also includes a list of other members whose needs cannot be published for one reason or another. For example, a person who was diagnosed with cancer prior to becoming a subscriber might have medical needs relating to the cancer that are not publishable. These medical needs are considered "special prayer needs." The names and addresses of these members are listed in the letter, and the subscriber is encouraged to send them money and a card and to pray for these people. Approximately 30% of the special prayer medical expenses are met each month by gifts from members. (Applicant's Ex. #9; Tr. pp. 33-34, 55-56)

40. The applicant's guidelines state that it will publish compassion needs (needs not included in the guidelines) to allow subscribers the opportunity to send additional contributions. These include bills resulting from a baby born with a birth defect or congenital problem, and under certain circumstances, bills for reversal of sterilization and bills for procedures related to infertility. The administrative office reserves the right to decide what will be published as a compassion need. (Applicant's Ex. #11, p. 16)

41. During 2000, the applicant allocated \$1,000 per month in its budget to help with the special prayer needs. It is usually given to the person with the largest need. (Tr. p. 58)

42. If a member does not pay their monthly share, the applicant will contact them to find out if they want to continue to participate. When a member has obtained a job or insurance, they often do not see the need for this type of participation. (Applicant's Ex. #11; Tr. p. 92)

43. The guidelines do not state that a person's name may still be included in the Prayer Guide or any other prayer request if they do not pay their monthly share. (Applicant's Ex. #11)

44. If a member cannot pay their full monthly share, the member is encouraged to apply for the "scholarship program" to have their monthly share paid. The applicant allocates \$500 a month for the scholarship fund. (Tr. pp. 58-59, 92-94)

45. To determine whether a person qualifies for the scholarship fund, the applicant will look at the member's financial situation, including their income and expenses. The applicant will also ask the member if he or she has gone to his or her church for help. (Tr. p. 93)

46. If the monthly medical needs of members are greater than the amount of money that the members are expected to share that month, then the applicant will prorate the money by dividing the amount of shares available by the total needs and apply that percentage to each need. The applicant will publish only the percentage of the needs that the shares will cover. (Applicant Ex. #11; Tr. pp. 48-49)

47. Since 1994, the applicant has had to prorate medical needs for a total of eight months. Usually 90% of the needs have been met during months that were prorated. One month was prorated at 80%. (Tr. p. 102)

48. With the exception of the needs that have been prorated, the monthly shares that a member receives from other members cover the entire amount of their medical expense. (Tr. p. 105)

49. In the event that the shares are prorated for a month, the applicant will ask the members/subscribers to consider sending additional money to cover the need. The applicant will indicate that if each member sends a certain amount, the need will be covered. Approximately 30% of the members send more than their monthly share amount. (Applicant Ex. #11; Tr. pp. 49-50)

50. If the shares available for a particular month are greater than the needs presented, the applicant may reduce the monthly amount and/or subscribers may be instructed to send a portion of their amount to the administrative office. (Applicant's Ex. #11, p. 7)

51. In addition to requesting a monetary gift, the applicant encourages its members to send a note or card to give encouragement to the person with the medical need. (Tr. pp. 31-32)

52. Anyone who presents a false need or who uses other deceptive practices will be dropped from the subscription list, as well as anyone who participates in the misuse of trust. (Applicant's Ex. #11, p. 16)

53. The applicant obtains members primarily through word-of-mouth. The applicant also advertises in Christian publications and magazines. The applicant does some direct mailing and radio interviews and goes to conventions and trade shows. (Tr. pp. 53, 60)

54. In December 2000, the applicant had approximately 6,000 households as members/subscribers. (Tr. p. 23)

55. The people who generally become members of the applicant are ministers, pastors, missionaries, and self-employed people. (Tr. pp. 52-53)

56. Approximately 89% of the applicant's revenues during 2000 were derived from annual subscription fees. Approximately 9% of the revenues were derived from fundraising through advertising. A small amount was derived from member gifts. (Applicant's Ex. #16; Tr. pp. 63-67)

57. The applicant's 2000 tax return shows the following as income and expenses:

Income:

Direct public support	\$ 31,100
Card deck advertising ³	146,160
Mannatech Commission ⁴	2,719
Membership dues and assessments	1,484,257
Interest on savings	2,761
Other income	950
Total income	\$1,667,947

Expenses:

Compensation of officers:

Ted A. Pittenger	67,924	
E. Ray King	52,757	
James Lansberry	43,554	164,235
Other salaries		302,540
Other employee benefits		3,225
Payroll taxes		39,684
Accounting fees		479
Legal fees		44,667
Telephone		49,557
Postage and shipping		92,069
Occupancy		12,054
Printing and Publications		76,770
Travel		8,388
Conferences, conventions		150
Depreciation		41,484
Answering service		8,371
Insurance		1,524
Advertising		131,681

³ The applicant stopped operating the card deck advertising after 2000. (Tr. pp. 64-67)

⁴ Mannatech is a multi-level organization that sells vitamins and nutritional supplements. In 1999, the applicant became a sales representative for Mannatech. The applicant believes that nutritional products sold by Mannatech meet the health needs of the applicant's members and reduce the medical expenses that must be shared through the newsletter. (Applicant's Ex. #16)

Employee training, recruitment	5,548
Contract Labor	38,702
Card deck expenses	255,430
Worker's compensation	2,908
Medical shares	22,500
Auto expense	6,578
Mannatech expenses	23,207
Writer's honorarium	3,500
Meeting expense	4,899
Storage expense	1,665
Supplies	7,760
Computer supplies	4,211
Maintenance	4,471
Kitchen expense	1,971
Other miscellaneous expenses	2,968
Total expenses	\$1,363,195
Excess	\$ 304,752

(Applicant's Ex. #16)

58. For 1999, the applicant's revenue exceeded expenses by \$137,252. Prior to 1999, the applicant had difficulty meeting its financial obligations. (Applicant's Ex. #15; Tr. p. 68)

59. When people become new members, they are asked to send their monthly share amounts for the first three months to the applicant. This money is used to publicize the ministry and expand the subscriber base. (Applicant's Ex. #11, p. 7; Tr. p. 64)

60. During 2000, the applicant's members sent their regular monthly shares in the amount of \$6,426,910 to other members. They also sent approximately \$165,000 for special prayer needs and \$20,000 for amounts over the prorated amounts. This money is not shown on the applicant's tax return because it is sent directly to the other members. (Applicant's Ex. #14)

61. One of the applicant's officers is a chaplain who gives spiritual counseling to staff members, board members, and members at large. He also instructs the staff members to be more effective in spiritual counseling. The applicant has monthly meetings for its staff. It has also had weekly instruction for its staff. (Tr. pp. 38, 88)

62. By the end of the year 2000, the applicant employed 12 people full-time and 8 people part-time. (Tr. p. 23)

63. The applicant's Board members and employees are required to adhere to the applicant's doctrines. (Tr. pp. 23-24)

64. The majority of the time spent preparing the Newsletter is spent preparing the various feature articles. (Tr. p. 42)

65. For some needs, the applicant will negotiate with the care provider to attempt to obtain a discount for the services. (Tr. p. 92)

66. The applicant does not perform public worship services on a regular basis. The applicant does not operate a Sunday school. (Tr. p. 88)

67. The applicant has two toll-free numbers that a member can call any time to pray with or talk to a staff member. (Tr. pp. 94-95)

68. The applicant is currently working on a program to help with medical needs that are over \$100,000. The applicant is also considering a disability program. (Tr. pp. 61-62)

69. The applicant's Board of Directors has five members. Each serves without pay except if the director is also an employee of the applicant. Three of the directors are elected by the applicant's members. (Applicant's Ex. #3, pp. 5-7; Tr. p. 44)

70. Ted Pittenger, who is the applicant's president, is a permanent member of the Board. He selects the final director. (Applicant's Ex. #3, pp. 5-7)

71. According to the Bylaws, as long as Ted Pittenger holds the office of president, his compensation may not be lower than any other officer or employee of the applicant. (Applicant's Ex. #3, p. 10)

72. The applicant must maintain life insurance on Ted Pittenger in the amount of \$1,000,000, which his dependents or estate shall receive upon his death. (Applicant's Ex. #3, p. 10)

73. The Bylaws provide that the compensation of the officers and any employees who serve as directors shall be set by the Board. If an employee is a member of the Board, when his compensation is being considered, he may only be present to answer questions and otherwise must recuse himself from the meeting. The compensation must be approved in both amount and manner to be in compliance with Internal Revenue Code Regulation Section 53.4958-6(C) so as to be presumed reasonable. (Applicant's Ex. #3, pp. 9-10)

74. The Articles of Incorporation indicate that none of the net earnings of the corporation shall inure to the benefit of, or be distributed to the members, directors, officers, or other private persons, except for reasonable compensation for services rendered. Upon dissolution of the corporation, the assets of the corporation will be given to a 501(c)(3) religious organization. (Applicant's Ex. #2)

75. The applicant is not regulated by the Department of Insurance. (Tr. p. 100)

CONCLUSIONS OF LAW:

Religious Exemption

The applicant's request for a religious exemption from the property tax is pursuant to section 15-40 of the Property Tax Code, which provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, * * *. 35 ILCS 200/15-40.

In determining whether property is exempt under this provision, the primary use of the property, rather than its incidental use, must be considered. Illinois Institute of Technology v. Skinner, 49

Ill.2d 59, 65-66 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11, 16 (1924). In order to qualify for the exemption, the property must actually be used for the exempting purpose. Illinois Institute of Technology at 64. Intention to use is not the same as actual use. Id.

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of clearly proving that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

With respect to the religious exemption, the Department argues that in order to be considered a "religious purpose," the property must be used "by a religious society or body of persons as a stated place for public worship, Sunday schools, and religious instruction," citing People ex rel. McCullough v. Deutsche Evangelisch Lutherische Jehovah Gemeinde, 249 Ill. 132, 136 (1911). In the present case, the applicant does not provide public religious services, Sunday school, or other public religious instruction, so the Department contends that the applicant does not qualify for the exemption.

The Department believes that in order to qualify for the religious exemption on the basis that the applicant prepares religious publications, the publications must be sold at cost or less, and any revenue in excess of expenditures must be the sole result of donations. See Inter-Varsity Christian Fellowship of the U.S. v. Hoffman, 62 Ill.App.3d 798 (2nd Dist. 1978). In addition, the Department believes that no part of the earnings of the entity may inure to the benefit of any individual. Id. The Department claims that the Newsletter generates revenue in excess of its expenditures, and the applicant has historically not received donations from the public or its members. Also, Ted Pittenger is guaranteed a salary in excess of the highest paid employee, and

the applicant provides for his life insurance with the benefits payable to his dependants or his estate. The Department claims that these facts indicate that a portion of the applicant's earnings inure to the benefit of its president, so the applicant would not qualify for the exemption.

The applicant contends that the narrow definition of "religious purpose" provided by the Department is not the law in Illinois. In People ex rel. Carson v. Muldoon, 306 Ill. 234 (1922), the court stated that the definition of religious purpose in Deutsche Evangelisch was not to include everything that might be regarded as a religious use, but it was simply illustrative of the nature of such use. Muldoon at 238. In McKenzie v. Johnson, 98 Ill.2d 87 (1983), the court quoted with approval a dissent that stated that nothing in the constitution or the statute limits the exemption to property used for public worship. McKenzie at 98. The applicant also states that in Community Renewal Society v. Department of Labor, 108 Ill.App.3d 773 (1st Dist. 1982), the court stated that Deutsche Evangelisch cannot be read as containing an authoritative definition of "religious purposes."⁵ Furthermore, the applicant believes that the Department acknowledges that the definition in Deutsche Evangelisch is not all inclusive because the Department recognizes that organizations that produce religious publications are not required to meet that definition in order to qualify for the exemption.

The applicant contends that no part of the earnings inure to the benefit of Mr. Pittenger. The Articles of Incorporation mandate that no part of its net earnings shall inure to the benefit of its members, directors, officers, or other private persons. In addition, the Board of Directors sets Mr. Pittenger's compensation, and Mr. Pittenger may not vote or even be present when his compensation is determined. The Board must follow the procedure set forth in IRS Regulation Section 53.4958-6(C), which means that only the three outside members may vote on this, and

they must use as a guideline information concerning compensation for similar positions. The applicant believes that Mr. Pittenger's life insurance and salary are reasonable compensation for the founder and CEO of this organization.

The applicant contends that the publications do not have to be sold at cost or less, and any revenue in excess of expenditures does not have to be the result of donations in order to qualify for the exemption. In Evangelical Teacher Training Association v. Novak, 118 Ill.App.3d 21 (2nd Dist. 1983), the organization's property, which was used to publish religious textbooks, was entitled to an exemption from taxes. This exemption was allowed even though the organization made profits on its textbook sales, and donations were only 1% of its income.

The applicant admits that its activities are not closely analogous to any organization described in any reported decision but believes that it is similar to a church in that it provides prayer and counseling activities. The staff gives spiritual instruction and prays with the members. There are two toll-free numbers that the members can call anytime for prayer and counseling. The applicant believes that its activities constitute public worship and religious instruction, and its building is probably used a larger percentage of time for worship and instruction than a traditional church, which usually is used only on Sundays.

The applicant states that all its members must be committed Christians because if they do not share a common faith, it is impossible to minister to one another's spiritual, emotional, physical and financial needs. The commitment must be strong because the casual religious person is not likely to provide prayer, letters, and emotional support on a continual basis. In addition, because there is no legal obligation to share the burdens, it must be based on faith and a

⁵ The applicant notes that although this case concerns the interpretation of "religious purposes" under the Unemployment Compensation Act, courts have discussed the term on the assumption that it has the same meaning

moral obligation. The applicant is attempting to build a community that sacrifices and gives beyond the minimum to others in need. The applicant asks its members to not ask for assistance with a medical expense if they can pay it themselves, even if they would be allowed to share it. Therefore, a member will often give up his right to share the expense.

The applicant states that its religious nature saturates the text of the Newsletter. The Prayer Guide is completely religious in nature. Also, the individualized letter encourages the member to pray and give more than the minimum amount that they have agreed to pay. Over 50% of what the applicant publishes is devoted to directing and encouraging members to pray for one another. Producing the Newsletter and providing spiritual and emotional counseling of members consumes 50% of the resources and staff time.

The applicant argues that its activity is not secular, and it is not in competition with secular publishers. Only 20% of its time is devoted to an activity that is not traditionally a part of church functions, which is assisting with the medical financial needs of its members. The applicant asserts that it does not generate a substantial profit. It believes that its surplus of money is far less than the surplus of the organization that was given an exemption in Evangelical. Until 1999, the applicant had trouble meeting its financial obligations, but it did not increase the annual fee and has considered reducing it. Upon dissolution, the assets will go to a religious 501(c)(3) organization.

The applicant contends that it is not similar to insurance because the applicant does not engage in shifting risks or evaluating risks. The applicant does not conduct any medical background checks. It does not charge premiums and does not maintain reserve funds for paying medical expenses.

Although the applicant's arguments are sincere, the record does not allow the conclusion that the applicant advances. As previously stated, property satisfies the exclusive-use requirement of the religious exemption if it is primarily used for the exempt purpose; the fact that it is incidentally used for a secular purpose does not destroy the exemption. McKenzie at 98. "Whether a party has been organized and operated exclusively for an exempt purpose is to be determined from its charter and by-laws and the actual facts relating to its method of operation." Evangelical at 24. The nature of the business that is done, not the use to be made of the profits, must be considered in deciding whether the property is exempt. Inter-Varsity at 801.

As the applicant has indicated, when the Supreme Court provided the definition of religious purpose in Deutsche Evangelisch, it did not intend to limit exempt uses to those that fall within that specific definition. Muldoon at 238. The Supreme Court subsequently stated that "Our attention has been called to no decision of this court attempting to lay down an all-inclusive definition or specification of what constitutes a religious purpose." Scripture Press Foundation v. Annunzio, 414 Ill. 339, 352 (1953). Since then, courts have more liberally construed the term. See Evangelical, supra (property used for teacher training in Bible studies, personal evangelism, and missions was used for religious purposes); Inter-Varsity, supra (property used to publish religious books and literature was used for religious purposes).

Notwithstanding a broader definition of religious purposes than what the Department suggests, the applicant primarily uses its property for secular rather than religious purposes. The property is primarily used to help Christians pay their medical expenses rather than to promote religion. In order to become a member of the applicant, a person must first have his or her pastor verify that he or she is following the Christian principles required by the applicant. One of the

principles that must be followed is that the member must attend church three out of four weeks per month that health and weather permit.

Belonging to a church congregation is, therefore, necessary to being a member of the applicant's organization. The applicant's members must continue to maintain their church membership by attending church regularly, and their pastor must verify this each year. Also, before a member can qualify for the scholarship fund, he or she must first go to his or her church for help.

Clearly, the applicant's members are expected to receive religious guidance and support from an organization other than the applicant. They are required to be members of a church and must continue to be members of a church while they are members of the applicant. If this organization is similar to a church, then why does it require its members to seek solace and support somewhere else? The answer, which is reasonably arrived at based upon the facts presented, is because the applicant's primary purpose is to financially benefit its members rather than to provide religious guidance or support.

At its core, the applicant is organized to assure its members that they will receive money to pay their medical expenses when they need it. In order to do this, the applicant first requires its members to pay an annual fee and send their first three required monthly payments directly to the applicant. Then the members are expected to send monthly payments to other members. In return, each member expects to receive money when he needs it. The applicant did not provide the number of members who do not pay the annual fee or monthly share amounts. The applicant's president stated that he did not know the exact numbers, but they are a small percentage of the total members. (Tr. p. 94) From the income statement, it appears that nearly all of the members pay the annual fee because only a small portion of the income is from

donations. Nearly 90% of the applicant's income is from dues and assessments. Also, almost all of the members make their monthly payments because, as the facts establish, the applicant allocates only \$500 a month for its scholarship fund, which provides assistance to only a maximum of seven individuals or two families. This is a very small percentage of 6,000 households. Because the overwhelming majority of the members make their payments, the applicant is able to continue its operations.

The members make their payments because they know that if they do not do so, they do not receive the primary benefit of membership, which is to receive money when they need it. The guidelines state that members must pay their monthly share amounts, pay the annual fee, and live a Christian life-style in order to submit a need and receive payment for it. Although there was testimony that the annual fee may be waived, nothing in the record indicates that the members are aware of this policy. Nothing in the bylaws states that the applicant is required to admit people who do not have sufficient funds to make the payments. As previously stated, most of the members make their payments. They do this in order to prevent being taken off the list of people who will receive money to pay their bills.

Despite the fact that the members do not, technically, have a contractual obligation to make the payments, the applicant still assures its members that they will receive a payment when they need it. There are at least two bases for this assurance. One is a shared, fundamental religious premise of helping another person in need. The other is applicant's fundamental structure, which is similar to that of an insurance company. Although the applicant has pointed out its differences, it is similar to an insurance company in that members make regular monthly payments with the knowledge that they will receive money for their medical expenses when they need it. Even if certain members lapse their membership, there are always others who do not

have traditional medical insurance or who are underinsured, who will become members for the significant financial benefits. This is supported by the applicant's admission that members leave when they obtain traditional insurance, and they become members when they do not have adequate traditional insurance.

While the applicant relies on a common religion to determine the parameters of its membership, the applicant does not exist to promote religion. That is done by the individual member's church. The applicant was organized to satisfy the financial needs of its members, and religion is simply a basis for judging who will regularly send money. The applicant helps its members sustain their religious beliefs and life-styles through its publications; however, this is not the primary purpose of applicant's existence.

Even though the applicant presented evidence indicating that its employees spend 30% of their time producing the monthly Newsletter and 20% giving spiritual and emotional counseling, this does not mean that 50% of their time is spent on religious activities. The applicant's publications, including the Newsletter, cannot be considered entirely religious. A portion of the publications must be considered financial because if their purpose were entirely religious, then a number of people would choose to simply receive the publications and not pay the monthly share. The applicant's president stated that "a few" people do this, although it is not known exactly how many. (Tr. pp. 59-60) The number is small because the applicant has indicated that the sharing of medical expenses is a religious obligation, and its members are expected to pay their share each month. Even though the president also stated that past Newsletters are available free through its website, he did not indicate that the Newsletter is marketed to non-members or that the applicant attempts to distribute simply the Newsletter to whoever wants it.

The applicant sends members all three of its publications together because the members are expected to help other members pay their medical expenses, and the purpose of the publications is to encourage this. After receiving the publications together, the member is expected to send money. The members' financial and religious obligations are interconnected, so the publications cannot be considered entirely religious, and, thus, the time spent producing them cannot be considered entirely religious in nature.

Significantly, the applicant did not give evidence showing that a person may still be included on the prayer lists even though he or she has not paid the annual fee or monthly payments. It is reasonable to conclude that the members must share the medical expenses in order to be included in the prayer requests. Once again, money is the primary concern.

The applicant's members know that the primary purpose of the applicant is to assure payment of their medical bills rather than serve a religious purpose because they often discontinue their membership once they get a job or insurance coverage. When they obtain insurance elsewhere, they no longer see the need to participate in the applicant's organization. (Tr. p. 92) Therefore, the motivating factor for participating is to receive the monetary support. Without it, there is no incentive to join.

The applicant's goal is commendable because medical bills can be financially devastating to people without health insurance. This economic goal is nevertheless secular and not religious. Besides the financial burdens that result from illness, there are certainly emotional and spiritual burdens as well. The applicant's support of these burdens, however, is incidental to the financial support. Even though the applicant provides its members with some religious guidance and encouragement, the primary reason for becoming a member is to receive the financial benefits.

The case of Bethel Conservative Mennonite Church v. Commissioner of Internal Revenue, 746 F.2d 388, 391 (7th Cir. 1984), which was cited by the applicant, is distinguishable. In that case, the court found that a church's medical plan that was available to its members did not disqualify the church for exemption from federal income tax as being organized and operated exclusively for religious purposes.

Unlike the present case, the plan in Bethel was one aspect of the church's operations and was maintained in furtherance of one of the church's many goals to assist its needy. In the instant case, the medical expense assistance is the sole reason for the applicant's existence. The primary purpose of the applicant's operations is to satisfy the financial needs of its members through the applicant's directions and membership requirements. Because the applicant's property is used primarily for economic rather than religious purposes, it is not entitled to the religious exemption.

Charitable Exemption

The provision of the Property Tax Code that allows exemptions for charitable purposes provides in relevant part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity. 35 ILCS 200/15-65(a)

In deciding whether the applicant actually and exclusively uses the property for charitable purposes, the following factors are considered:

1. Whether the benefits derived are for an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare or in some way reducing the burdens of government;
2. Whether the organization has no capital, capital stock or shareholders and earns no profits or dividends but rather derives its funds mainly from public

- and private charity and holds them in trust for the objects and purposes expressed in its charter;
3. Whether the organization dispenses charity to all who need and apply for it, does not provide gain or profit in a private sense to any person connected with it, and does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses; and
 4. Whether the exclusive (primary) use of its property is for charitable purposes.

Methodist Old Peoples Home v. Korzen, 39 Ill.2d 139, 156-57 (1968). These factors are not requirements but are guidelines to be considered in assessing an institution's charitable status. DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill.App.3d 461, 468 (2nd Dist. 1995).

The Department argues that under these factors, the applicant does not qualify for the exemption. The applicant does not benefit an indefinite number of people because it does not have a written provision for the waiver of the annual fee or monthly sharing amount. Also, the applicant does not reduce the burdens of government because nothing in the by-laws contractually obligates it to assist its members with their medical needs. In addition, the applicant does not dispense charity to all who need and apply for it because it has stringent membership requirements. Finally, the Department contends that the applicant financially benefits its founder and president.

The applicant contends that the criteria in Methodist Old Peoples Home are only loosely applied to religious publishers, so they should only be loosely applied in this case. The applicant argues that the testimony indicated that the fees are sometimes waived and the applicant has a scholarship program for those who cannot pay their monthly share; therefore the Department's concerns regarding fees and monthly shares should not preclude the exemption. The applicant also states that most of the Department's objections to its charitable aspects are due to the

applicant's religious nature, which is why the Methodist Old Peoples Home criteria should not strictly apply. The applicant notes that in Bethel, the court stated that religions, by their very nature, provide services that benefit only the members of the individual congregations. Bethel at 391. The applicant contends that despite its membership requirements, it should still qualify for the exemption.

The evidence does not support a finding that the applicant is charitable in nature. As the Department has indicated, the applicant does not dispense charity to all who need and apply for it because its membership is restricted to Christians who follow specific Christian principles. See Fairview Haven v. Department of Revenue, 153 Ill.App.3d 763, 772 (4th Dist. 1987) (the benefits of independent-living units are not applied to all because residence is restricted to members of the faith and friends).⁶ Also, as previously stated, nothing in the record indicates that the members are aware of a policy to waive the annual fee, and there is nothing in the bylaws indicating that people who cannot pay must still be admitted. The applicant allocates only \$500 a month for its scholarship fund, and there is no evidence that this amount is sufficient to cover the needs of the members. If it is not sufficient, then they are not providing charity to everyone who needs it. The fact that free assistance is given to such a small number of people does not support the applicant's contention that it is charitable in nature.

In addition, Mr. Pittenger profits significantly from the applicant's operations. A one million dollar life insurance policy, payable to his personal beneficiaries, is a substantially large benefit to receive for founding and taking part in operating a charitable organization. Furthermore, Mr. Pittenger is guaranteed a permanent, life-time, seat on the Board as well as the right to name one of the remaining four directors. There is no evidence in the record that these

⁶ As indicated by the Bethel court, this is a concern for the charitable property exemption, not religious. A church may restrict its membership to Christians. Bethel at 391.

benefits are the custom within charitable organizations. Finally, as previously discussed, the primary use of the applicant's property is to financially benefit its members. Therefore, the property is not used for charitable purposes. These facts justify denying the property a charitable exemption.

Recommendation:

For the foregoing reasons, it is recommended that the applicant's property does not qualify for either the religious or charitable property tax exemption.

Linda Olivero
Administrative Law Judge

Enter: April 21, 2003